

**Subpart 3046.7—Warranties****3046.702 [Reserved]****3046.790 Use of warranties in major systems acquisitions by the USCG (USCG).****3046.790-1 Scope (USCG).**

This subpart provides the policy for the USCG to use in obtaining warranties from contractors when contracting for the acquisition of a major system.

[68 FR 67871, Dec. 4, 2003. Redesignated and amended at 71 FR 25772, May 2, 2006]

**3046.790-2 Definitions (USCG).**

As used in this part:

*At no additional cost to the Government* means without an increase in price for firm-fixed-price contracts, without an increase in target or ceiling price for fixed price incentive contracts (see (FAR) 48 CFR 46.707).

*Defect* means any condition or characteristic in any supplies or services furnished by the contractor under the contract that is not in compliance with the requirements of the contract.

*Design and manufacturing requirement* means structural and engineering plans and manufacturing particulars, including precise measurements, tolerances, materials and finished product tests for the major system being produced.

*Performance requirements* means the operating capabilities, maintenance, and reliability characteristics of a system that are determined to be necessary for it to fulfill the requirement for which the system is designed.

[71 FR 25772, May 2, 2006]

**3046.790-3 Policy (USCG).**

(a) *Major Systems.* The use of warranties by the USCG in the procurement of major systems valued at \$10,000,000 or higher is mandatory, unless waived (see (HSAR) 48 CFR 3046.790-4).

(b) Any warranty on major system acquisitions shall not apply in the case of any system or component thereof which has been furnished by the Government to a contractor except as indicated in paragraph (c)(4) of this section.

(c) When drafting warranty provisions/clauses for major systems acquisitions, the contracting officer shall

ensure that the items listed at the Homeland Security Acquisition Manual (HSAM) Chapter 3046 have been considered. The warranty shall also meet the following requirements:

(1) For systems or components that are commercially available, such warranty as is normally provided by the manufacturer or supplier shall be obtained in accordance with (FAR) 48 CFR 46.703(d) and 46.710(b)(2).

(2) For systems or components provided in accordance with either design and manufacturing or performance requirements as specified in the contract or any modification to that contract, a warranty of compliance with the stated requirements shall be obtained.

(3) Any warranty obtained shall specifically exclude coverage for combat damage.

(4) A contractor for a major systems acquisition shall not be required to provide the warranties specified in this section on any property furnished to that contractor by the Government except for defects in installation.

[71 FR 25772, May 2, 2006]

**3046.790-4 Waiver (USCG).**

(a) The Secretary of Homeland Security may waive the requirement for a warranty for USCG major system acquisitions when the waiver is in the interest of national defense or if the warranty obtained would not be cost beneficial. A waiver may be granted provided that the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified, in writing, of the Secretary's intention to waive the warranty requirements and the reasons supporting such a determination, prior to granting the waiver.

The request for Secretarial waiver shall include, as a minimum:

(1) A brief description of the major system and its stage of production (e.g., the number of units delivered and anticipated to be delivered during the life of the program);